

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BEST MEDICAL INTERNATIONAL, INC.,)	
Plaintiff,)	
)	
v)	2:10-cv-1043
)	
ACCURAY, INC., a corporation,)	
Defendant.)	

ORDER OF COURT

Pending now before the Court are objections to the fees and expenses claimed by the Special Master in this case. The objections have been filed under seal.

On May 13, 2011, after consideration of the parties' proposed Special Master candidates, the Court appointed Gale R. Peterson, Esquire of the Cox Smith law firm in San Antonio, Texas to serve as Special Master throughout the claim construction process in this case including, but not limited to, conduct of the Claim Construction Hearing and preparation of a Report and Recommendation to the Court and parties thereafter. The Appointment Order provided, inter alia, that: "All reasonable costs and expenses related to the services rendered by the Special Master shall be shared equally by the parties." The Special Master traveled to Pittsburgh and conducted a claim construction hearing with the Court on May 16, 2012. On September 7, 2012, the Special Master filed a Report and Recommendation ("R&R").

By correspondence dated October 15, 2012 Special Master Peterson submitted an invoice to the parties, seeking payment of "Total Fees" of \$185,000.00 and "Total Disbursements" of \$7,815.12, for a "Total This Invoice" of \$192,815.12. The invoice directed payment from each party of its one-half share of \$96,407.56. At the request of counsel, the Court instructed the Special Master to provide detailed itemized information concerning the fees and expenses he claims in this matter. In that Order, the Court emphasized that it was "unknown whether or not there will be formal objections to the fees/expenses claimed by the Special Master."

By letter dated December 31, 2012, the Special Master provided to the Court and parties a five-page letter which set forth the basis for his invoice, and attached supporting information. The Special Master specifically requested that he be given an opportunity to respond if objections were, in fact, filed.

Such objections have been filed. The Court is not persuaded by counsel's position that the objections should remain confidential and that no response from the Special Master is necessary or warranted. To the contrary, the Court concludes that a response from the Special Master is entirely appropriate and would be helpful to the Court.

AND NOW, this 30th day of January, 2013, in accordance with the foregoing, it is hereby ORDERED that all objections to the Special Master's claimed fees and expenses shall be provided to the Special Master forthwith. Special Master Peterson shall file his response to the objections on or before February 15, 2013, such response to be filed under seal.

BY THE COURT:

s/Terrence F. McVerry
United States District Judge

cc: Special Master
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